

Message Text

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ORIGIN EB-11

INFO OCT-01 EUR-25 ADP-00 L-03 CAB-09 CIAE-00 COME-00

DODE-00 INR-09 NSAE-00 RSC-01 FAA-00 INRE-00 DOTE-00

SS-14 NSC-10 PA-03 PRS-01 USIA-12 /099 R

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3/27/73: EXT 21232

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P 272234 Z MAR 73

FM SECSTATE WASHDC

TO AMEMBASSY BONN PRIORITY

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E. O. 11652: N/ A

TAGS: ETRN, GW

SUBJ: CIVAIR-- CHARTER UNDERSTANDING

REF: BONN 4346

1. FOLLOWING ARE COMMENTS ON PROPOSED DRAFTING CHANGES
SHOWN PARA 7 REFTEL:

- A. ACCEPTABLE, BUT " THEIR" SHOULD BE/ ITS/
- B. ACCEPTABLE.
- C. ACCEPTABLE.
- D. PURPOSE OF PHRASE " OR ANY WHICH MAY SUPERCEDE IT"

IS TO CONTEMPLATE POSSIBILITY FURTHER UNDERSTANDING AFTER
3/31/74 AND TO ALLOW CAB TO ADOPT A RULE IMPLEMENTING THE
UNDERSTANDING WHICH NEED NOT NECESSARILY TERMINATE ON
3/31/74. SINCE THIS PARA DEALS WITH WHAT US SIDE WILL
DO, AND SINCE PHRASE IN QUESTION CANNOT BE ADVERSE TO FRG
INTERESTS, PHRASE IN QUESTION SHOULD BE RETAINED.

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E- WE WILLING DELETE " AND SO TO ACCEPT SUCH TRAFFIC", BUT " AND SO TO ACCEPT THE CHARTERWORTHINESS OF SUCH TRAFFIC: MUST BE SUBSTITUTED.

2. DEPARTMENT DESIRES ONE ADDITIONAL CHANGE IN TEXT UNDERSTANDING. IN PARA 2 OF PARA ROMAN II, INSERT " CHARTER-WORTHY" BEFORE " REGULATIONS".

3. IT IS NOT CLEAR TO US WHETHER FMT DRAFT LETTER IN PARA 3 REFTEL IS INTENDED TO BE THE FRG INSTRUMENT WHICH (WITH US RESPONSE) WILL BRING UNDERSTANDING INTO EFFECT OR IS EQUIVALENT TO A MEMORANDUM OF CONSULTATION AT TIME UNDERSTANDING IS INITIALED AD REFERENDUM. IF FORMER, IT WOULD ATTACH RESERVATIONS TO UNDERSTANDING WHICH HAVE THE EFFECT EITHER OF CHANGING UNDERSTANDING OR MAKING IT INVALID UNDER CERTAIN CIRCUMSTANCES. IF LATTER, WE HAVE NO OBJECTION IN PRINCIPLE TO INFORMAL LETTER IN LIEU OF MEMO CONSULTATIONS. IN EITHER CASE, THERE WOULD STILL BE QUESTION THAT SOME OF STATEMENTS MADE IN DRAFT, IF ACCEPTED BY US SIDE, APPEAR TO AFFECT SUBSTANTIVE ISSUES. FOR EXAMPLE, DOES PARA 2 QUALIFY UNDERSTANDING OR IS IT INTENDED SIMPLY TO CONFIRM WHAT IS IN UNDERSTANDING? PARA 5 IS CLEARLY SUBSTANTIVE. WOULD THIS PARA WASH OUT IF (AS APPEARS LIKELY) IATA STATUS QUO PACKAGE ACCEPTED? RE LAST SENTENCE PARA 4, SEE PARA 4 BELOW.

4. ON COMMINGLING QUESTION, WE CANNOT ACCEPT FMT RESERVATION RE ITC' S. (PARA 11 REFTEL.) IT IS IMPLICIT IN RULES OF ORIGIN CONCEPT THAT EACH SIDE ACCEPTS ENTIRE RULE OF OTHER SIDE WHICH IN US CASE PERMITS COMMINGLING WITH OTHER CHARTER TYPES. UNDERSTANDING WOULD THUS PREVENT ONE SIDE TURNING DOWN THE COMMINGLING ON GROUNDS THE COMBINATION (I. E. THE COMMINGLING TGC AND ITC GROUPS) IS UNCHARTERWORTHY. HOWEVER, UNDERSTANDING WOULD NOT PRECLUDE FMT FROM DISAPPROVING THE ITC PORTION ON GROUNDS IT DID NOT CONFORM TO FMT RULES AND REGULATIONS.

5. ON OTHER COMMINGLING QUESTION (TGC' S AND ABC' S ON SAME AIRCRAFT), EMBASSY SHOULD CONTINUE TO HOLD OUT FOR US POSITION. YOU MIGHT EXPLAIN THAT UK, FRENCH AND DUTCH ABC RULES ALSO PROHIBIT COMMINGLING, BUT THESE COUNTRIES DO NOT INTERPRET THIS TO EXTEND TO COMMINGLING OF ABC AND LIMITED OFFICIAL USE

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TGC GROUPS. SINCE THE ADVANCE CHARTER CONCEPT IS EXPERI-

MENTAL, WE DO NOT KNOW EXTENT TO WHICH SUCH COMMINGLING MIGHT TAKE PLACE, BUT WE DO NOT SEE PROBLEMS ARISING WHICH COULD NOT BE TAKEN CARE OF BY FOOTNOTE 3. WE ALSO NOTE THAT, SINCE FMT PREPARED GRANT WAIVERS FOR CERTAIN COMMINGLING ON 747 AIRCRAFT, THERE WOULD APPEAR BE NO LEGAL BAR TO GRANTING WAIVERS FOR ABC/ TGC COMMINGLING.

6- RE FORM OF BRINGING UNDERSTANDING INTO EFFECT, FMT PROPOSAL SET FORTH PARA 6 REFTEL WOULD BE ACCEPTABLE, IN PRINCIPLE, THAT IS LETTER SIGNED BY REHN " BY ORDER OF THE FEDERAL MINISTER OF TRANSPORT". DRAFTS SUCH LETTER AND EMBASSY RESPONSE SHOULD BE SUBMITTED DEPARTMENT FOR REVIEW. ROGERS

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*** Current Classification *** LIMITED OFFICIAL USE

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